

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.K.MOHANAN

MONDAY, THE 24TH DECEMBER 2007 / 3RD POUSHA 1929

Bail Appl..No. 7898 of 2007()

CRIME NO.2202/2007 OF THE ALUVA POLICE STATION

PETITIONER/ACCUSED NO.9

**SHABEER @ SHABI, S/O MOOSSA,
VADASSERYPPARAMBIL HOUSE,
THADIKKAKADAVU, VELIYATHUNDADU,
KARUMALLOOR VILLAGE.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

**1. THE SUB INSPECTOR OF POLICE,
ALUVA POLICE STATION.**

**2. THE CIRCLE INSPECTOR OF POLICE,
ALUVA POLICE STATION.**

**(RESPONDENT 1 AND 2 REP.BY THE PUBLIC PROSECUTOR , HIGH
COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24/12/2007, ALONG WITH BA. 8033/07, 8055/07
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

V.K.MOHANAN, J.

B.A.Nos. 7898, 8033 & 8055 of 2007

Dated this the 24th day of December, 2007

O R D E R

All these petitions are filed under Section 439 of the Code of Criminal Procedure for regular bail by the accused in Crime No.2202 of 2006 of the Aluva Police Station. B.A.No.7898 of 2007 is filed by one Shabeer who is the 9th accused in the above crime whereas B.A.No.8033 of 2007 is filed by one Sathar who is the 4th accused in the very same crime for the offences punishable under Sections 143, 147, 148, 326 and 307 read with Section 149 I.P.C. B.A.No.8055 of 2007 is filed by one Nizar and others who are respectively accused Nos.1,2,5,6,11 and 12 in the very same crime. Since all these bail applications are, though filed by different accused, pertinent to the very same crime, these petitions are to be disposed of by this common order.

2. The prosecution allegation is that the de facto complainant and the accused were on inimical terms and on 27.11.2007, the accused in the above crime formed

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themselves into an unlawful assembly armed with dangerous weapons such as swords, iron rods etc. and in furtherance of the common object of causing the murder of the de facto complainant, the accused cut him with swords and beat him with iron rods and wooden reapers which resulted in fracture to the left leg of the de facto complainant and the accused thereby attempted to murder the de facto complainant. The petitioner in B.A.No.7898 of 2007 as the 9th accused was arrested on 29.11.2007. The fourth accused in B.A.No.8033 of 2007 was arrested on 12.12.2007. The petitioners in B.A.No.8055 of 2007 as accused Nos.1,2,5,6,11 and 12 respectively were arrested on 5.12.2007. The petitioners in these applications moved bail applications in the courts below and the same were rejected and therefore, these applications are filed with prayers to release them on bail.

3. I have heard the learned counsel for the petitioners and also the learned Public Prosecutor.

4. Counsel for the petitioners submits that the accused/petitioners are totally innocent of the allegations levelled against them and investigation of the case is almost over and they are in custody for the last several days and as the investigation is over, their continued detention is not warranted. It is also submitted that the petitioners are ready to abide whatever conditions in case of their release on bail and are ready to offer solvent sureties also.

5. Per contra, the learned Public Prosecutor vehemently opposed these applications and submitted that the incident had taken place on 27.11.2007. That too as a result of the attempt on the part of the petitioners to materialise the object of unlawful assembly and the accused in the above crime are members of a militant organisation who tried to finish the de facto complainant by using dangerous weapons like sword, stick etc., as a result of which the defacto complainant sustained serious injuries, who is admitted in the hospital for treatment. It is also submitted by the

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Public Prosecutor that the investigation is not complete. In Annexure A2 order of the Sessions Court, Ernakulam which is produced in B.A.No.8055 of 2007, the Sessions Court, after perusing the case diary had held that 20 persons including the petitioners who are belonging to a Militant Organisation have participated in the incident. On a perusal of the materials available on record, it is disclosed that the incident had taken place as a calculated attempt and the petitioners who are accused in the above crime are members of the Militant Organisation and as a result of the said incident, the de facto complainant had sustained serious injuries who had admitted in the hospital for treatment. It is also relevant to note that the investigation is in progress. Though the 9th accused was arrested on 29.11.2007, the accused Nos.1,2,5,6,11 and 12 were arrested on 5.12.2007 and the fourth accused is arrested only on 12.12.2007. Considering the gravity of the offence alleged against the petitioners and since the investigation is in progress, I am of the view that the

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petitioners are not entitled to get bail and accordingly, I am not inclined to grant bail. In the result, the bail applications are dismissed.

**V.K.Mohanan,
Judge**

Mbs/

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V.K.MOHANAN, J.

CrI.M.C.NO. OF 200

J U D G M E N T

DATED: -0-2007

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